

Employer-sponsored Coverage Background and FAQs for the Health Insurance Marketplace

Background:

Verification of access to employer-sponsored coverage is one component of the process for determining eligibility for the premium tax credit (PTC) and cost-sharing reductions (CSR) available to support the purchase of qualified health plans through the Health Insurance Marketplace. The term Health Insurance Marketplace refers to all state and federally run marketplaces including State-based, Federally-facilitated and State Partnership marketplaces unless otherwise noted. If an individual is either enrolled in employer-sponsored coverage or eligible for employer-sponsored coverage that is affordable and meets the minimum value standard, then the individual is not eligible for PTC and CSR. Affordability is calculated by comparing the employee's share of the annual premium of the lowest-cost self-only plan that meets the minimum value standard (and also factors in certain discounts for wellness programs) to the employee's annual household income. To be deemed affordable, the employee's share of the annual premium must be less than 9.5% of annual household income. An employer plan is considered to meet the minimum value standard if the plan's share of the total allowed benefit costs covered by the plan is no less than 60 percent of such costs. We note that for purposes of the employer shared responsibility payment, a plan is deemed affordable for the employer affordability safe harbor from shared responsibility payment if the cost to the employee of self-only coverage is not more than 9.5% of his/her wages as reported in Box 1 of the employee's Form W-2.

To support employer-sponsored coverage verification, an individual will provide information regarding their access to employer-sponsored coverage on the single, streamlined application. The Marketplace will match the individual's information to a limited number of data sources. In the event no data is found in available verification data sources, for a statistically significant sample of individuals, the Federally-facilitated Marketplace will reach out to employers directly to collect information regarding any coverage offered to the applicant.

Earlier this year, HHS and the Department of Labor released tools to help employees and employers obtain information about employer-sponsored coverage. First, HHS released the Employer Coverage Tool used to complete the Marketplace application at https://www.healthcare.gov/downloads/ECT_Application_508_130615.pdf. Employees can use this tool to obtain the necessary information from their employer to complete the eligibility application and verify access to employer-sponsored coverage.

Second, the Department of Labor released a model 18B notice to provide employers with a tool to distribute information about the coverage they offer to their employees available at <http://www.dol.gov/ebsa/pdf/FLSAwithplans.pdf>. This notice includes the option for employers to provide information from the Employer Coverage Tool with the required notice.

Frequently Asked Questions About the Health Insurance Marketplace and Employer-sponsored Coverage:

As an employer, what can I do to help my employees who are not eligible for coverage through my company find health coverage through the Marketplace?

Employers can help their employees find health coverage through the Marketplace by providing them with contact information for the Marketplace in their state, and making sure that they have the information about coverage available through the employer so that the employee can provide it on the Marketplace application. By filling out the Employer Coverage Tool

https://www.healthcare.gov/downloads/ECT_Application_508_130615.pdf [insert link], an employer will give an employee all the information he/she needs to apply for coverage through the Marketplace. Providing your employees a completed Employer Coverage Tool before open enrollment (beginning October 1, 2013 and going until March 31, 2014 for the first year, and from October 15 to December 7 starting in 2014 and each following year) and when employer plan options change can help reduce the number of questions you get from employees about the new health care law.

Why does the Marketplace need information about the coverage I offer to my employees?

After an individual submits their application to the Marketplace, we use the information about any employer coverage available to determine whether the individual is eligible for a new tax credit to help lower health insurance costs. If the Marketplace finds that an individual will be either enrolled in employer-sponsored coverage or eligible for employer-sponsored coverage that is affordable and meets the minimum value standard, then he/she would not be eligible for the new tax credit.

Why does the Marketplace need my contact information?

The health care law specifies that when an employee (or someone in their tax household) has been determined eligible for the new tax credit, the Marketplace will notify that person's employer. This notification will allow the employer to provide updated information about coverage available to the employee (if applicable) and provide an early indication of potential liability for the employer shared responsibility payment assessed by IRS for 2015.

How does the Marketplace calculate whether employer coverage is affordable?

Affordability is determined by calculating the employee's share of the annual premium for the lowest-cost self-only plan the employer offers that meets the minimum value standard (factoring in certain discounts for wellness programs) and comparing that amount to the employee's annual household income. A plan is considered affordable if the employee's share of the annual premium is less than 9.5% of annual household income. An individual is not eligible to receive a tax credit if he or she is eligible for coverage that is deemed affordable and that meets minimum value.

How does the Marketplace treat wellness incentives that affect premium cost?

The premium amount for the plan offered by the employer is calculated by assuming that the employee received the maximum discount for any tobacco cessation programs the employer offers, and doesn't include any other discounts from wellness programs. This net premium amount is compared to the employee's annual household income to determine affordability.

What is the minimum value standard?

An employer plan is considered to meet the minimum value standard if the plan's share of the total allowed benefit costs covered by the plan is no less than 60 percent of such costs. You should contact your plan administrator or use the minimum value calculator on the CCIIO website (<http://www.cms.gov/CCIIO/index.html>) to find out if the plans you offer meet the minimum value standard.

How will the Marketplace verify whether an individual has access to employer-sponsored coverage that is affordable and meets the minimum value standard?

The Marketplace will verify the attested information provided by an individual on the Marketplace application first by comparing the information with any available electronic data sources. For 2014, the Federally-facilitated sMarketplace will use data from the federal Office of Personnel Management and the Small Business Health Options Program. For 2015 and beyond, we continue to work closely with employers to explore additional opportunities for electronic data matching to streamline the verification process. In the event no data is found in available electronic data sources, for a statistically significant sample of individuals, the Marketplace will reach out to employers directly to verify the individual's attested information regarding employer coverage.

How will the sample-based review be conducted?

If the Marketplace does not have any information in available data sources to verify whether an individual has access to employer-sponsored coverage that is affordable and meets the minimum value standard, the Marketplace will take a statistically significant sample of such individuals and reach out to employers directly to verify the individual's attested information regarding employer coverage. In the Federally-facilitated and State Partnership Marketplace, a contractor will contact the employer by phone to obtain information the employee. The information requested will be the same as what is captured on the employer coverage tool. State-based Marketplaces have the flexibility to begin performing this sample-based review for eligibility determinations for insurance affordability programs that are effective starting January 1, 2015. option to start this sample-based review on October 15, 2014.

How will I know if the Marketplace has determined one of my employees to be eligible for the new tax credit?

When an employee (or someone in their tax household) has been determined eligible for the new tax credit, the Marketplace will notify the employee's employer. In recent rulemaking, we clarified that the Marketplace can either send the employer notice on an employee-by-employee basis as eligibility

determinations are made, or send it to employers for groups of employees.¹ Similarly, when an employee (or someone in their tax household) is no longer eligible for the tax credit, the Marketplace will notify the employee's employer.

How is employer-sponsored coverage information used for determining whether one of my employees is exempt from the shared responsibility payment for individuals who don't maintain minimum essential coverage?

Starting in 2014, each individual needs to have minimum essential coverage to qualify for an exemption, or make a shared responsibility payment on his or her tax return. There are several exemptions from this payment described in the Affordable Care Act and supporting regulations, including one for individuals who are unable to afford coverage based on projected household income. In order to evaluate whether someone is eligible for this exemption, the Marketplace will need information about available employer-sponsored coverage. The exemption application includes an exemption-specific employer coverage tool, which is very similar to the employer coverage tool that is used as a part of the eligibility process for health coverage; the only changes are those required by regulation.

Specifically, in addition to asking for the cost of self-only coverage, the exemptions tool also asks for the cost of family coverage, if it is offered. It also asks for the cost of coverage without any discounts for wellness programs.

What if my company only offers plans where the monthly premium is low but the out of pocket costs are high?

Out-of-pocket costs are not specifically considered when the Marketplace calculates affordability. The Marketplace will determine affordability by comparing the employee's share of the annual premium of the lowest-cost self-only plan offered by the employer that meets the minimum value standard (factoring in certain discounts for wellness programs) to the employee's annual household income. A plan is considered affordable if the employee's share of the annual premium is less than 9.5% of annual household income. We note that for purposes of the employer shared responsibility provision, a plan is deemed affordable for the employer affordability safe harbor from shared responsibility payment if the cost to the employee of a self-only coverage is not more than 9.5% of his/her wages as reported in Box 1 of the employee's Form W-2.

¹ 45 CFR §155.310(h).

What Should I Do Next?

- Decide how you will provide information about the coverage you offer to your employees
 - Proactively or as requested fill out Employer Coverage Tool, or opt to include information on FLSA 18B notice
- Determine contact to address limited number of Marketplace inquiries
 - To what address do you prefer notices be sent?
- Help us find a solution to streamline employer-sponsored coverage verification process
- Let us know what you think!

Resources:

- **18B Model notice:** <https://www.healthcare.gov/what-do-i-need-to-tell-my-employees-about-the-marketplace/>
- **Employer Coverage Tool:** https://www.healthcare.gov/downloads/ECT_Application_508_130615.pdf
- **General CCIIO Resources:** <http://www.cms.gov/ccio/index.html>
Tax Provisions for Employers: <http://www.irs.gov/uac/Affordable-Care-Act-Tax-Provisions-for-Employers>
- **Healthcare.gov:** <https://healthcare.gov>
- **Business.usa.gov:** <https://business.usa.gov/healthcare>
- **Small Business Administration:** <http://www.sba.gov/healthcare>